

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

V.

TY ALLEN MOORE,

**Defendant.**

NO: CR-12-6023-RMP

## ORDER GRANTING MOTION FOR COMPETENCY EVALUATION

## **\*\*U.S. Marshal Action Required\*\***

Before the Court is Defendant's Motion for a Competency Evaluation, ECF No. 61. The Court has reviewed Defendant's motion, ECF No. 61, and supporting memorandum, ECF No. 62, and the Government's response, ECF No. 65. In addition the Court heard from the parties at a pretrial conference in Yakima, Washington, on August 30, 2012. Defendant Ty Allen Moore is represented by Assistant Federal Defender Diane Hehir. The Government is represented by Assistant United States Attorney Alexander Ekstrom.

Based upon the representations of Defendant's counsel and the conclusions of the initial report by Dr. Wert, who conducted a brief mental health evaluation of

1 Defendant at the invitation of defense counsel, the Court finds that there is  
2 reasonable cause to believe that “the defendant may presently be suffering from a  
3 mental disease rendering him mentally incompetent to the extent that he is unable  
4 to understand the nature and consequences of the proceedings against him or assist  
5 properly in his defense.” 18 U.S.C. § 4241. Therefore, the Court orders a  
6 competency hearing preceded by a psychiatric or psychological examination and  
7 report.

8 Accordingly, **IT IS HEREBY ORDERED:**

- 9 1. Defendant’s motion for a competency evaluation, **ECF No. 61**, is  
10 **GRANTED**.
- 11 2. Defendant’s motion for extension of time to file pretrial motions,  
12 **ECF No. 59**, is **GRANTED**. The trial date of September 17, 2012,  
13 and all remaining pretrial deadlines and hearings are **STRICKEN** and  
14 shall be reset upon the Court’s determination that Defendant is  
15 competent to proceed to trial. In addition, Defendant’s motion in  
16 limine, **ECF No. 53**, is **RESERVED FOR ARGUMENT AND**  
17 **RULING**, pending the competency determination.
- 18 3. Defendant shall be examined with respect to whether he is able to  
19 understand the nature and consequences of the proceedings against  
20 him and to assist properly in his defense. 18 U.S.C. § 4241(b); *see*

1           also 18 U.S.C. § 4247(c)(4)(A). To facilitate a psychiatric or  
2           psychological examination, the Defendant is committed to the custody  
3           of the Attorney General for a period **not to exceed thirty days**. 18  
4           U.S.C. § 4247(b). **The Attorney General shall identify the closest**  
5           **suitable facility, preferably Federal Detention Center – SeaTac,**  
6           for the competency evaluation, and the **U.S. Marshal shall**  
7           **immediately transport Defendant** to that facility.

- 8           4. The final report of Defendant's mental competency evaluation shall  
9           be submitted to the Court by **October 15, 2012**, at  
10           [petersonorders@waed.uscourts.gov](mailto:petersonorders@waed.uscourts.gov) and to the following address:  
11           Honorable Rosanna Malouf Peterson, Post Office Box 324, Spokane,  
12           Washington 99210. The report shall include: 1) the Defendant's  
13           history and present symptoms; (2) a description of the psychiatric,  
14           psychological, and medical tests that were employed and their results;  
15           (3) the examiner's findings; and (4) the examiner's opinions as to  
16           diagnosis, prognosis, and whether Defendant is suffering from a  
17           mental disease or defect rendering him mentally incompetent to the  
18           extent that he is unable to understand the nature and consequences of  
19           the proceedings against him or to assist properly in his defense. 18  
20           U.S.C. § 4247(c)(1), (2), (3), and (4)(A).

5. The Court shall hold a competency hearing on **November 7, 2012**, at **1:30 p.m.** in **Yakima**, Washington. *See* 18 U.S.C. § 4241. Pursuant to 18 U.S.C. 4247(d), Defendant “shall be afforded an opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.”

The parties shall file any **briefing** on the matter no later than **October 26, 2012**. Any **responses** shall be filed by **November 2, 2012**.

**6. Any witnesses appearing from the evaluation facility may attend the competency hearing via video conference.**

10       7. The period from August 30, 2012, until the date the Court determines  
11              whether Defendant is competent to stand trial will be **excluded** from  
12              computation of Defendant's speedy trial deadline. 18 U.S.C. §  
13              3161(h)(1)(A).

14 The District Court Clerk is directed to file this Order and provide copies to  
15 counsel, the U.S. Marshal, U.S. Probation, and Information Technology Specialist  
16 Dave Cambensy.

**DATED** this 31st day of August 2012.

s/ Rosanna Malouf Peterson  
ROSANNA MALOUF PETERSON  
Chief United States District Court Judge